

TOWN OF NEWTOWN - ZONING BOARD OF APPEALS

Instructions and Procedures for Filing Appeals

DATES OF MEETINGS

Regular meetings of the Zoning Board of Appeals are held on the first Wednesday of each month at 7:30 pm at the Newtown Municipal Center, 3 Primrose Street. Special meetings may be called at other times if necessary.

Every effort will be made to schedule any application for hearing at the next regular meeting of the Board provided the application form is filed with the Land Use Secretarial staff not less than twenty-one (21) days prior to the date of the meeting.

TIME LIMIT

Applications under Sections B-1 of the application form must be filed within thirty (30) days after the Zoning Officer's issuance or denial of permit from which the appeal is taken. Applications under Sections: B-2, B-3 and B-4 may be filed at any time.

REQUIRED COPIES

Applications must be filed with the Zoning Board of Appeals in triplicate and all three copies must be signed. All information called for on the form must be given and shall be concisely stated. Additional statements, if essential, may be attached on separate sheets. One of the three copies specified above will be deemed to have been filed with the Zoning Commission as required by Sec. 8-7 of Chapter 124 of the General Statutes.

MAPS AND PLANS

Applications involving questions of lineal dimensions or area of land, structures or both, should be accompanied by a Class A-2 plot plan and building plans giving clear and complete details of the case. A copy of each plan must be attached to each copy after application.

Plot plans must be drawn to scale, accurately showing lot dimensions, area, location and size of all existing and proposed buildings on the property, existing and intended uses of each building or part of building, the number of families or housekeeping units any dwellings are designed to accommodate, the location of the well, septic tank and field, and any other information needed to clarify and define the questions involved.

The Zoning Board of Appeals must require full and accurate information to arrive at its decisions. Plot plan prepared by a licensed surveyor must be submitted by the applicant with all applications unless this requirement is waived by a committee of the Zoning Board of Appeals. Failure to file adequate plans may necessitate dismissal of an appeal (without prejudice) due to lack of accurate evidence.

If TOPOGRAPHICAL CONDITIONS are claimed as the basis of an unusual hardship in requesting a variance (Sec B-3 of form) the application shall be accompanied by photographs or a topographical survey, all in triplicate, showing the condition.

MOTOR VEHICLE CASES

Plot plans for gasoline stations, garages, etc., in addition to locating buildings, shall show locations of pumps, signs, lights, planting, curbs, walks, highway lines, exits and entrances. The applicant also must furnish forms required to be executed by the Board for the Connecticut Motor Vehicle Department.

FEES TO BE PAID

A fee of two hundred and ten dollars (\$210) must accompany each application for a variance or special permit filed with the Clerk of the Zoning Board of Appeals. A fee of three hundred and ten dollars (\$310) must accompany each application for the Correction of An Alleged Error. A fee of two hundred and sixty dollars (\$260) must accompany each application requesting the issuance of a Certificate of Location for a Motor Vehicle Sales or Repairing Business or the operation of a Gasoline Station.

Effective Date: January 1, 2003

Check or money order must be made payable to the "Town of Newtown".

PRESENCE REQUIRED

The applicant or his designated agent or attorney MUST attend the hearing. The Board, in its discretion, may dismiss any appeal without prejudice for failure to comply with any of the foregoing instructions and procedures.

TOWN OF NEWTOWN
Zoning Board of Appeals
NOTICE OF APPEAL - APPLICATION FOR HEARING

Before filling in this form please read carefully the accompanying instructions. When completed, deliver or mail three (3) signed copies, each with all detailed information attached thereto to:

Secretary c/o The Zoning Officer
Zoning Board of Appeals
Newtown Municipal Offices
3 Primrose Street
Newtown, CT 06470

DO NOT WRITE IN THIS SPACE

Date Rec'd _____ Docket _____

Fee Paid _____ Date Adv _____

Date Hear _____ By _____

A. APPLICANT (Please print or type):

Name (s) _____

Mailing Address _____

Telephone _____

B. PURPOSE OF APPLICATION (Use only one of the following four numbered sections)

1 () To Appeal for Correction of Alleged Error in a decision of the Zoning Officer who on (date) _____
did () deny or () grant a permit requested by _____

() Explanatory Statement to be Attached by Applicant. Statement should indicate in detail what action is desired and the reasons therefore as required by Chapter 124, Section 8-7 of the General Statutes, 1958 Revision, as amended. Maps, plans, photographs, etc. should be included, if needed, to clarify the question at issue.

2 () To Apply for a Special Exception or a Special Permit, as authorized by section(s) _____
of the Zoning Regulations of the Town of Newtown and to request hereunder permission to _____

() Explanatory Statement to be Attached by Applicant. If industrial use is planned specify product, process, material used, capacity, etc. If residential or business use is planned, describe fully.

3 () To Apply for Variance of section (s) _____ of the Zoning Regulations of the
Town of Newtown so as to permit _____

() Explanatory statement, to be attached by applicant statement, should indicate exactly what is proposed as shown by maps, plans, photographs, etc. It should include specific statements on the following three requirements as specified in Chapter 124, Section 8-6 of the General Statutes, 1958 Revision, as amended:

- a. That "literal enforcement of such regulations would result in exceptional difficulty or unusual hardship,"
- b. That this is due "to conditions especially affecting such parcel but not affecting generally the district in which it is situated," and
- c. That the variance sought is "in harmony with the general purpose and intent" of the Zoning Regulations of the Town of Newtown.

4 () To Apply for a Certificate of Approval of Location for a:

- a. () Motor Vehicle Sales or Repairing Business as required by Sections 14-51 through 14-57 of Chapter 246 of the General Statutes, 1958 Revision, or for
- b. () Gasoline Station as required by Section 14-321 through 14-324 of Chapter 250 of the General Statutes, 1958 Revision, as amended.

() Complete Plans and Required State Forms are to be attached to this application by the applicant.

C. LOCATION OF AFFECTED PREMISES:

Zoning District: _____
Street or Road Address: _____
Aerial Survey Map (in Tax Assessor's office): Map _____ Block _____ Lot _____
Subdivision Map (if any): Map No. _____ Lot (s) No. _____
Is the property located in the Aquifer Protection District? Yes _____ No _____
Owner of Property (if different from applicant):
Name (s) _____
Mailing Address _____

D. PREVIOUS APPEAL(S) OR APPLICATION(S):

List all prior appeals which relate to this property in whole or in part. If this is the first, please enter none.

Date _____ Date _____ Date _____
Docket No. _____ Docket No. _____ Docket No. _____

E. OWNERS OF ADJACENT PROPERTIES:

List owners of record (in the Tax Assessor's office) of all properties which bound any portion of the affected premises, including those directly across any highways bounding it.

Name _____	Mailing Address _____
Name _____	Mailing Address _____
Name _____	Mailing Address _____
Name _____	Mailing Address _____
Name _____	Mailing Address _____

F. DECLARATION (to be signed by all applicants):

I (We) hereby declare that all information in the foregoing application, and in attachments submitted herewith, is accurate and complete to the best of my (our) knowledge and belief.

Date _____ Signature _____
Date _____ Signature _____

G. DESIGNATION OF AGENT OR ATTORNEY

It is not necessary for an applicant to be represented by either an agent or an attorney. A property owner should be able to present his or her own case. However, if an agent or attorney is retained, the fact must be so stipulated below.

I (We) hereby designate the following individual(s) to act for me (us) at any hearing held in response to this application:

As () Agent () Attorney
Name _____
Address _____
Date _____ Signature _____

As () Agent () Attorney
Name _____
Address _____
Date _____ Signature _____

NOTIFICATION FORM

Dear: _____

Be advised that _____ has applied for
(Applicant)

property located at the following address:

(Street, name, number)

(Map) (Block) (Lot)

The proposal is for (Description of Proposal) _____

The Newtown Zoning Board of Appeals will conduct a public hearing on this proposal.

Date: _____ Time: _____

Location: _____

You are being notified because your property is within 500 feet of the proposed application.

The application is on file in the Zoning Board of Appeals Office, Land Use Agency, Newtown
Municipal Building, 3 Primrose Street, Newtown, CT 06470

(To be completed by applicant)

AFFIDAVIT

Application of _____

Application Description: _____

The undersigned, being duly sworn, deposes and says:

1. I have mailed a notice of the time and place of the public hearing scheduled for the subject application, as required by the Town of Newtown Zoning Board of Appeals to persons who are owners of land, which is included in or within 500 feet of the land, which is the subject of the hearing.
2. The date of the mailing of such notice was _____20_____
3. The names and addresses of the required property owners were determined by reference to the records of the Newtown Tax Assessor.

Applicant or Designated Agent

Sworn to and subscribed before me this _____ day of _____20_____

Commissioner of the Superior Court
Notary Public

My Commission Expires _____

Name and Address of Sender

Check type of mail or service:

- ☐ Certified
☐ COD
☐ Delivery Confirmation
☐ Express Mail
☐ Insured
☐ Recorded Delivery (International)
☐ Registered
☐ Return Receipt for Merchandise
☐ Signature Confirmation

Affix Stamp Here
 (If issued as a
 certificate of mailing,
 or for additional
 copies of this bill)
 Postmark and
 Date of Receipt

Article Number	Addressee (Name, Street, City, State, & ZIP Code)	Postage	Date of Receipt		Actual Value if Registered	Insured Value	Due Sender if COD	DC Fee	SC Fee	SH Fee	RD Fee	RR Fee
			Fee	Handling Charge								
1.												
2.												
3.												
4.												
5.												
6.												
7.												
8.												
Total Number of Pieces Listed by Sender	Postmaster, Per (Name of receiving employee)		See Privacy Act Statement on Reverse									
Total Number of Pieces Received at Post Office												

**Newtown Planning and Zoning Commission
AMENDMENT TO THE ZONING REGULATIONS
Pertaining to Miscellaneous Provisions Concerning the Zoning Board of Appeals
Effective November 28, 2005**

The Newtown Zoning Regulations at Article XI – Administration shall be amended as follows:

Section 11.05 through 11.05.130 shall be deleted in its entirety and the following shall be inserted in lieu thereof:

**ARTICLE XII
ZONING BOARD OF APPEALS**

SECTION 1 – ZONING BOARD OF APPEALS

12.01 Zoning Board of Appeals

12.01.100 Purpose and Intent. The Zoning Board of Appeals as provided by State Statute, shall have the power to adopt from time to time such rules and procedures consistent with law, as may be necessary to carry out the provisions of these Regulations and to exercise the authority vested in it by State Statute.

12.01.200 Powers and Duties. The Zoning Board of Appeals shall have the powers and duties reposed in it by the Connecticut General Statutes and these Regulations, all of which shall be exercised subject to appropriate conditions and safeguards, in harmony with the purpose and intent of these Regulations and in harmony with the public health, safety and welfare.

12.01.210 Appeals. To hear and decide appeals where it is alleged that there is an error in any order, requirement or decision made by the Zoning Enforcement Officer of the Town of Newtown. Any appeal taken pursuant to this section shall be made on a form available at the Land Use Office and within the time allowed by the Connecticut General Statutes.

12.01.220 Variances. To vary the strict application of any of the requirements of these Regulations in the case of an exceptionally irregular, narrow, shallow, or steep lot or other physical conditions for which strict application would result in exceptional difficulty or unusual hardship that would deprive the owner of the reasonable use of the land or building involved. No variance in the strict application of any provision of these Regulations shall be granted by the Zoning Board of Appeals unless it finds:

12.01.221 There are special circumstances or conditions fully described in the written findings of the Zoning Board of Appeals, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or building, and do not apply generally to land or buildings in the district, and have not resulted from any self-created hardship or any act subsequent to the adoption of these Regulations, whether in violation of the provisions hereof or not; and

12.01.222 The aforesaid circumstances or conditions are such that the strict application of the provisions of these Regulations would deprive the applicant of the reasonable use of such land or building and the granting of the variance is necessary for the reasonable use of the land or building; and

12.01.223 The variance as granted by the Zoning Board of Appeals is the minimum variance that will accomplish the purpose set forth herein; and

12.01.224 The granting of the variance will be in harmony with the purposes and intent of these Regulations, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

12.01.230 Special Permits. To issue Special Permits for detached above ground water towers or tanks. Before granting any such special permit, the Board of Appeals shall find that the following standards have been or will be met:

12.01.231 The proposed structure will not substantially impair property values in the neighborhood;

12.01.232 The proposed structure is consistent with the purpose and intent of these regulations and will not be otherwise detrimental to public health and safety. (Effective 11/29/99)

12.01.233 The proposed structure will not cause interference with radio or TV reception in the vicinity;

12.01.234 The proposed structure will not create a health or safety hazard to persons or property on or off the lot on which the structure is proposed. (Effective 11/29/99)

12.01.235 The Zoning Board of Appeals may impose conditions on the granting of such special permit which are designed to insure that said standards are met. Subsections 11.01.600, 11.01.700, 11.01.800, 11.01.900 and 11.01.1000 shall apply to the granting of any such special permit by the Zoning Board of Appeals. References in said subsections to the "Commission" shall be deemed to be to the Board of Appeals.

12.01.236 The Zoning Board of Appeals may make such regulations and establish such requirements as it deems fit in order to carry out its duties under this section.

12.01.240 Certificate of Approval of Location. To approve the location of gasoline stations, motor vehicle dealerships, and motor vehicle repair garages as defined by State Statutes; and in the case of new locations including site expansion subject to prior Special Exception & Site Development Plan Approval by the Planning and Zoning Commission.

12.01.250 Prohibited Variances. Use variances are explicitly prohibited in all zones. In instances where an existing legal non-conforming use has been established, this prohibition shall not limit the Zoning Board of Appeals from granting a use variance for a less intrusive non-conforming use subject to the terms and provisions of Section 9.03.

12.01.300 Procedures

12.01.310 Applications. All appeals and applications made to the Zoning Board of Appeals shall be in writing, on forms prescribed by the Board, and each appeal or application shall fully set forth the circumstances of the case. Every appeal or application shall refer to the specific provision of the regulations involved, and shall exactly set forth as the case may be, the interpretation that is claimed, use which is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the same should be granted.

12.01.320 Fees. At the time of filing an application, the applicant shall submit an application and/or appeal fee in accordance with the fee schedule, as determined from time to time by the Zoning Board of Appeals, or the actual cost of publication of the public hearing if greater than the fee, plus the cost of transcribing the proceedings of such hearing should the Zoning Board of Appeals require transcription for any purpose, including, without limitation, court action, advertising and processing.

12.01.330 Public Hearing. The Zoning Board of Appeals shall hold a public hearing on all applications and appeals and notice such hearings in accordance with the provisions of Section 8-3c(b) of the Connecticut General Statutes.

12.01.331 The applicant shall provide written notice of the time and place of such public hearing to persons who are owners of land which is within 500 feet from the land which is the subject of the hearing. The notices shall be on a form provided by the Zoning Board of Appeals and shall be mailed no less than ten (10) days before the hearing date. The applicant shall provide a Certificate of Mailing (form PS 3877) and Affidavit stating that the mailings were accomplished according to this section to the Zoning Board of Appeals clerk before the date of the public hearing. The Board and Commission shall be exempt from this requirement.

12.01.340 Board Action. The Zoning Board of Appeals shall decide each case within the time period allowed by Section 8-7d of the Connecticut General Statutes. Notice of the decision of the Zoning Board of Appeals shall be published in accordance with State Statutes.

12.01.400 Revocation and Rehearing

12.01.410 Revocation. When any variance or Special Permit granted by the Board of Appeals is utilized, the use, buildings and other structures shall comply in all respects with the final findings of the Board of Appeals. Any deviation from these findings which has not formally been approved by the Board of Appeals shall be considered a violation of these Regulations and shall be cause for the rejection or revocation of a variance or Special Permit, or the institution of such enforcement actions and/or imposition of penalties as are authorized by the Connecticut General Statutes. Before the Zoning Board of Appeals may revoke its action in granting such variance, it shall hold a public hearing thereon, of which the applicant and property owner in each case shall be given notice and afforded an opportunity to be heard.

12.01.420 Rehearing. No application for a rehearing shall be presented to the Zoning Board of Appeals within a period of 6 months from the date of a decision of the Zoning Board of Appeals as provided in Section 8-6 of the Connecticut General Statutes, which decision denied the application; unless, in the opinion of the Zoning Board of Appeals, there has been an unusual change in conditions, or an error in the decision, or new evidence warrants a rehearing.